

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MATCO TOOLS CORPORATION,

Petitioner,

v.

EMANUEL AGUILERA, ROCIO
AGUILERA, and SIMON GORO,

Respondents.

Case No. 5:19-cv-00641-PAB

RESPONDENTS' NOTICE OF SUPPLEMENTAL AUTHORITY
AND REQUEST TO FILE SUR-REPLY

Respondents, by and through undersigned counsel, hereby notify this Court of additional authority in support of Respondents' opposition to Claimant's petition to compel arbitration. As additional authority, Respondents call this Court's attention to the recent decision by the U.S. Court of Appeals for the Ninth Circuit in *In Re Matco Tools Corporation*, --- Fed.Appx. ----, 2019 WL 5490960, at *1 (9th Cir. Oct. 25, 2019). A true and correct copy of which is attached to this notice as Attachment A. Due to the nature of the Ninth Circuit's decision, including evaluation of the merits of the Northern District of California's decision in *Fleming v. Matco Tools Corp.*, 384 F.Supp.3d 1124 (N.D. Cal. 2019), Respondents also request leave to file a sur-reply addressing the effect of the *In re Matco Tools Corporation* decision on the parties' arguments regarding the application of collateral estoppel relating to the *Fleming* action. *See Skil Corp. v. Millers Falls Co.*, 541 F.2d 554, 557-58 (6th Cir. 1976) (Finding "the order issued upon petition for writ of mandamus is not interlocutory but rather is a final disposition" and that an order issued upon petition for writ of mandamus evaluating merits of underlying decision "had the effect of establishing the validity of the [] order as law of the case").

DATED: November 1, 2019

Respectfully submitted:

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Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2019, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access the filing through the Court's system.

DATED: November 1, 2019

Respectfully submitted:

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